

AMENDED IN SENATE MAY 17, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 25, 2005

**SENATE BILL**

**No. 1075**

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**Introduced by Senator Hollingsworth**

February 22, 2005

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An act to amend Section 8690.6 of, and to repeal and add Article 3.6 (commencing with Section 177) of Chapter 1 of Division 1 of Title 1 of the Government Code, relating to emergencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1075, as amended, Hollingsworth. Disaster response.

(1) Existing law ratifies, approves, and sets forth the provisions of the Interstate Civil Defense and Disaster Compact.

This bill would repeal those provisions and instead ratify, approve, and set forth the provisions of the Emergency Management Assistance Compact.

(2) Existing law establishes the Disaster Response-Emergency Operations Account in the Special Fund for Economic Uncertainties. Moneys in the account are continuously appropriated subject to specified limitations for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation by the Governor of a state of emergency. Existing law repeals these provisions on January 1, 2006.

This bill would extend the repeal of these provisions to July 1, 2007. By extending the term of the continuously appropriated account, the bill would make an appropriation.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 3.6 (commencing with Section 177) of  
2 Chapter 1 of Division 1 of Title 1 of the Government Code is  
3 repealed.

4 SEC. 2. Article 3.6 (commencing with Section 177) is added  
5 to Chapter 1 of Division 1 of Title 1 of the Government Code, to  
6 read:

7  
8 Article 3.6. Emergency Management Assistance Compact  
9

10 177. (a) It is the intent of the State of California to continue  
11 its long history of sharing emergency response resources with  
12 other states during times of disaster. Californian's have benefited  
13 from the assistance provided by the firefighters, law enforcement  
14 officers, emergency medical personal, and other emergency staff  
15 received from other states during our calamitous fires,  
16 earthquakes, ~~winters~~ winter storms, and other disasters. We must  
17 now join our sister states in ensuring we are prepared to aid our  
18 people during emergencies by entering into the Emergency  
19 Management Assistance Compact as it was adopted by Congress.

20 (b) The Emergency Management Assistance Compact as set  
21 forth in Section 178 is hereby ratified and approved.

22 178. The provisions of the Emergency Management  
23 Assistance Compact between the State of California and other  
24 states that are parties to the compact referred to *in* Section 177  
25 are as follows:

26 Article 1. Purposes and Authorities

27 This compact is made and entered into by and between the  
28 participating member states which enact this compact, hereinafter  
29 called party states. For the purposes of this agreement, the term  
30 "states" is taken to mean the several states, the Commonwealth  
31 of Puerto Rico, the District of Columbia, and all United States  
32 territorial possessions.

1 The purpose of this compact is to provide for mutual assistance  
2 between the states entering into this compact in managing any  
3 emergency or disaster that is duly declared by the governor of the  
4 affected state, whether arising from natural disaster,  
5 technological hazard, manmade disaster, civil emergency aspects  
6 of resource shortages, community disorders, insurgency, or  
7 enemy attack.

8 This compact shall also provide for mutual cooperation in  
9 emergency-related exercises, testing, or other training activities  
10 using equipment and personnel simulating performance of any  
11 aspect of the giving and receiving of aid by party states or  
12 subdivisions of party states during emergencies, such actions  
13 occurring outside actual declared emergency periods. Mutual  
14 assistance in this compact may include the use of the states'  
15 National Guard forces, either in accordance with the National  
16 Guard Mutual Assistance Compact or by mutual agreement  
17 between states.

#### 18 Article 2. General Implementation

19 Each party state entering into this compact recognizes many  
20 emergencies transcend political jurisdictional boundaries and that  
21 intergovernmental coordination is essential in managing these  
22 and other emergencies under this compact. Each state further  
23 recognizes that there will be emergencies which require  
24 immediate access and present procedures to apply outside  
25 resources to make a prompt and effective response to such an  
26 emergency. This is because few, if any, individual states have all  
27 the resources they may need in all types of emergencies or the  
28 capability of delivering resources to areas where emergencies  
29 exist.

30 The prompt, full, and effective utilization of resources of the  
31 participating states, including any resources on hand or available  
32 from the federal government or any other source, that are  
33 essential to the safety, care, and welfare of the people in the  
34 event of any emergency or disaster declared by a party state,  
35 shall be the underlying principle on which all articles of this  
36 compact shall be understood. On behalf of the governor of each  
37 state participating in the compact, the legally designated state  
38 official who is assigned responsibility for emergency  
39 management will be responsible for formulation of the

1 appropriate interstate mutual aid plans and procedures necessary  
2 to implement this compact.

3 Article 3. Party State Responsibilities

4 (a) It shall be the responsibility of each party state to formulate  
5 procedural plans and programs for interstate cooperation in the  
6 performance of the responsibilities listed in this article. In  
7 formulating such plans, and in carrying them out, the party states,  
8 insofar as practical, shall:

9 (1) Review individual state hazards analyses and, to the extent  
10 reasonably possible, determine all those potential emergencies  
11 the party states might jointly suffer, whether due to natural  
12 disaster, technological hazard, manmade disaster, emergency  
13 aspects of resource shortages, civil disorders, insurgency, or  
14 enemy attack.

15 (2) Review party states' individual emergency plans and  
16 develop a plan which will determine the mechanism for the  
17 interstate management and provision of assistance concerning  
18 any potential emergency.

19 (3) Develop interstate procedures to fill any identified gaps  
20 and to resolve any identified inconsistencies or overlaps in  
21 existing or developed plans.

22 (4) Assist in warning communities adjacent to or crossing the  
23 state boundaries.

24 (5) Protect and assure uninterrupted delivery of services,  
25 medicines, water, food, energy and fuel, search and rescue, and  
26 critical lifeline equipment, services, and resources, both human  
27 and material.

28 (6) Inventory and set procedures for the interstate loan and  
29 delivery of human and material resources, together with  
30 procedures for reimbursement or forgiveness.

31 (7) Provide, to the extent authorized by law, for temporary  
32 suspension of any statutes.

33 (b) The authorized representative of a party state may request  
34 assistance of another party state by contacting the authorized  
35 representative of that state. The provisions of this agreement  
36 shall only apply to requests for assistance made by and to  
37 authorized representatives. Requests may be verbal or in writing.  
38 If verbal, the request shall be confirmed in writing within 30 days  
39 of the verbal request. Requests shall provide the following  
40 information:

1 (1) A description of the emergency service function for which  
2 assistance is needed, ~~such as~~ *including*, but not limited to, fire  
3 services, law enforcement, emergency medical, transportation,  
4 communications, public works and engineering, building  
5 inspection, planning and information assistance, mass care,  
6 resource support, health and medical services, and search and  
7 rescue.

8 (2) The amount and type of personnel, equipment, materials  
9 and supplies needed, and a reasonable estimate of the length of  
10 time they will be needed.

11 (3) The specific place and time for staging of the assisting  
12 party's response and a point of contact at that location.

13 (c) There shall be frequent consultation between state officials  
14 who have assigned emergency management responsibilities and  
15 other appropriate representatives of the party states with affected  
16 jurisdictions and the United States Government, with free  
17 exchange of information, plans, and resource records relating to  
18 emergency capabilities.

19 Article 4. Limitations

20 Any party state requested to render mutual aid or conduct  
21 exercises and training for mutual aid shall take such action as is  
22 necessary to provide and make available the resources covered  
23 by this compact in accordance with the terms hereof; provided  
24 that it is understood that the state rendering aid may withhold  
25 resources to the extent necessary to provide reasonable protection  
26 for such state. Each party state shall afford to the emergency  
27 forces of any party state, while operating within its state limits  
28 under the terms and conditions of this compact, the same powers  
29 (except that of arrest unless specifically authorized by the  
30 receiving state), duties, rights, and privileges as are afforded  
31 forces of the state in which they are performing emergency  
32 services. Emergency forces will continue under the command  
33 and control of their regular leaders, but the organizational units  
34 will come under the operational control of the emergency  
35 services authorities of the state receiving assistance. These  
36 conditions may be activated, as needed, only subsequent to a  
37 declaration of a state of emergency or disaster by the governor of  
38 the party state that is to receive assistance or commencement of  
39 exercises or training for mutual aid and shall continue so long as  
40 the exercises or training for mutual aid are in progress, the state

1 of emergency or disaster remains in effect, or loaned resources  
2 remain in the receiving state, whichever is longer.

3 Article 5. Licenses and Permits

4 Whenever any person holds a license, certificate, or other  
5 permit issued by any state party to the compact evidencing the  
6 meeting of qualifications for professional, mechanical, or other  
7 skills, and when such assistance is requested by the receiving  
8 party state, such person shall be deemed licensed, certified, or  
9 permitted by the state requesting assistance to render aid  
10 involving such skill to meet a declared emergency or disaster,  
11 subject to such limitations and conditions as the governor of the  
12 requesting state may prescribe by executive order or otherwise.

13 Article 6. Liability

14 Officers or employees of a party state rendering aid in another  
15 state pursuant to this compact shall be considered agents of the  
16 requesting state for tort liability and immunity purposes. No  
17 party state or its officers or employees rendering aid in another  
18 state pursuant to this compact shall be liable on account of any  
19 act or omission in good faith on the part of such forces while so  
20 engaged or on account of the maintenance or use of any  
21 equipment or supplies in connection therewith. Good faith in this  
22 article shall not include willful misconduct, gross negligence, or  
23 recklessness.

24 Article 7. Supplementary Agreements

25 Inasmuch as it is probable that the pattern and detail of the  
26 machinery for mutual aid among two or more states may differ  
27 from that among the states that are party hereto, this instrument  
28 contains elements of a broad base common to all states, and  
29 nothing herein contained shall preclude any state from entering  
30 into supplementary agreements with another state or affect any  
31 other agreements already in force between states. Supplementary  
32 agreements may comprehend, but shall not be limited to,  
33 provisions for evacuation and reception of injured and other  
34 persons and the exchange of medical, fire, police, public utility,  
35 reconnaissance, welfare, transportation, and communications  
36 personnel, and equipment and supplies.

37 Article 8. Compensation

38 Each party state shall provide for the payment of compensation  
39 and death benefits to injured members of the emergency forces of  
40 that state and representatives of deceased members of such forces

1 in case such members sustain injuries or are killed while  
2 rendering aid pursuant to this compact, in the same manner and  
3 on the same terms as if the injury or death were sustained within  
4 their own state.

5 Article 9. Reimbursement

6 Any party state rendering aid in another state pursuant to this  
7 compact shall be reimbursed by the party state receiving such aid  
8 for any loss or damage to or expense incurred in the operation of  
9 any equipment and the provision of any service in answering a  
10 request for aid and for the costs incurred in connection with such  
11 requests; provided, that any aiding party state may assume in  
12 whole or in part such loss, damage, expense, or other cost, or  
13 may loan such equipment or donate such services to the receiving  
14 party state without charge or cost; and provided further, that any  
15 two or more party states may enter into supplementary  
16 agreements establishing a different allocation of costs among  
17 those states. Article 8 expenses shall not be reimbursable under  
18 this provision.

19 Article 10. Evacuation

20 Plans for the orderly evacuation and interstate reception of  
21 portions of the civilian population as the result of any emergency  
22 or disaster of sufficient proportions to so warrant, shall be  
23 worked out and maintained between the party states and the  
24 emergency management/services directors of the various  
25 jurisdictions where any type of incident requiring evacuations  
26 might occur. Such plans shall be put into effect by request of the  
27 state from which evacuees come and shall include the manner of  
28 transporting such evacuees, the number of evacuees to be  
29 received in different areas, the manner in which food, clothing,  
30 housing, and medical care will be provided, the registration of  
31 the evacuees, the providing of facilities for the notification of  
32 relatives or friends, and the forwarding of such evacuees to other  
33 areas or the bringing in of additional materials, supplies, and all  
34 other relevant factors. Such plans shall provide that the party  
35 state receiving evacuees and the party state from which the  
36 evacuees come shall mutually agree as to reimbursement of  
37 out-of-pocket expenses incurred in receiving and caring for such  
38 evacuees, for expenditures for transportation, food, clothing,  
39 medicines, and medical care, and like items. Such expenditures  
40 shall be reimbursed as agreed by the party state from which the

1 evacuees come. After the termination of the emergency or  
2 disaster, the party state from which the evacuees come shall  
3 assume the responsibility for the ultimate support of repatriation  
4 of such evacuees.

5 Article 11. Implementation

6 (a) This compact shall become operative immediately upon its  
7 enactment into law by any two states. Thereafter, this compact  
8 shall become effective as to any other state upon its enactment by  
9 such state.

10 (b) Any party state may withdraw from this compact by  
11 enacting a statute repealing the same, but no such withdrawal  
12 shall take effect until 30 days after the governor of the  
13 withdrawing state has given notice in writing of such withdrawal  
14 to the governors of all other party states. Such action shall not  
15 relieve the withdrawing state from obligations assumed  
16 hereunder prior to the effective date of withdrawal.

17 (c) Duly authenticated copies of this compact and of such  
18 supplementary agreements as may be entered into shall, at the  
19 time of their approval, be deposited with each of the party states  
20 and with the Federal Emergency Management Agency and other  
21 appropriate agencies of the United States Government.

22 Article 12. Validity

23 This act shall be construed to effectuate the purposes stated in  
24 Article I hereof. If any provision of this compact is declared  
25 unconstitutional, or the applicability thereof to any person or  
26 circumstances is held invalid, the constitutionality of the  
27 remainder of this act and the applicability thereof to other  
28 persons and circumstances shall not be affected thereby.

29 Article 13. Additional Provisions

30 Nothing in this compact shall authorize or permit the use of  
31 military force by the National Guard of a state at any place  
32 outside that state in any emergency for which the President is  
33 authorized by law to call into federal service the militia, or for  
34 any purpose for which the use of the Army or the Air Force  
35 would in the absence of express statutory authorization be  
36 prohibited under Section 1385 of Title 18 of the United States  
37 Code.

38 SEC. 3. Section 8690.6 of the Government Code is amended  
39 to read:



1     8690.6. (a) The Disaster Response-Emergency Operations  
2 Account is hereby established in the Special Fund for Economic  
3 Uncertainties. Notwithstanding Section 13340, moneys in the  
4 account are continuously appropriated, subject to the limitations  
5 specified in subdivisions (c) and (d), without regard to fiscal  
6 years, for allocation by the Director of Finance to state agencies  
7 for disaster response operation costs incurred by state agencies as  
8 a result of a proclamation by the Governor of a state of  
9 emergency, as defined in subdivision (b) of Section 8558. These  
10 allocations may be for activities that occur within 120 days after  
11 a proclamation of emergency by the Governor.

12     (b) It is the intent of the Legislature that the Disaster  
13 Response-Emergency Operations Account have an  
14 unencumbered balance of one million dollars (\$1,000,000) at the  
15 beginning of each fiscal year. If this account requires additional  
16 moneys to meet claims against the account, the Director of  
17 Finance may transfer moneys from the Special Fund for  
18 Economic Uncertainties to the account in an amount sufficient to  
19 pay the amount of the claims that exceed the unencumbered  
20 balance in the account.

21     (c) Funds shall be allocated from the account subject to the  
22 conditions of this section and upon notification by the Director of  
23 Finance to the chairperson of the Joint Legislative Budget  
24 Committee and the chairpersons of the fiscal committees in each  
25 house.

26     (d) Notwithstanding any other provision of law, authorizations  
27 for acquisitions, relocations, and environmental mitigations  
28 related to activities, as described in subdivision (a), shall be  
29 authorized pursuant to this section. However, these funds may  
30 only be authorized for needs that are a direct consequence of the  
31 proclaimed emergency where failure to undertake the project  
32 may interrupt essential state services or jeopardize public health  
33 or safety. In addition, any acquisition accomplished under this  
34 subdivision shall comply with any otherwise applicable law,  
35 except as provided in the first sentence of this subdivision.

36     (e) No funds allocated under this section shall be used to  
37 supplant federal funds otherwise available in the absence of state  
38 financial relief.

39     (f) The amount of financial assistance provided to an  
40 individual, business, or governmental entity under this section, or

1 pursuant to any other program of state-funded disaster assistance,  
2 shall be deducted from sums received in payment of damage  
3 claims asserted against the state, its agents, or employees, for  
4 causing or contributing to the effects of the proclaimed disaster.

5 (g) No public entity administering disaster assistance to  
6 individuals shall receive funds under this section unless it  
7 administers that assistance pursuant to the following criteria:

8 (1) All applications, forms, and other written materials  
9 presented to persons seeking assistance shall be available in  
10 English and in the same language as that used by the major  
11 non-English-speaking group within the disaster area.

12 (2) Bilingual staff who reflect the demographics of the disaster  
13 area shall be available to applicants.

14 (h) This section shall remain in effect only until July 1, 2007,  
15 and as of that date is repealed, unless a later enacted statute, that  
16 is enacted before July 1, 2007, deletes or extends that date.

17 SEC. 4. This act is an urgency statute necessary for the  
18 immediate preservation of the public peace, health, or safety  
19 within the meaning of Article IV of the Constitution and shall go  
20 into immediate effect. The facts constituting the necessity are:

21 In order to ensure that the state is aided by other states and is  
22 prepared to meet any emergency or disaster declared by the  
23 Governor, it is necessary that this act take effect immediately.